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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/408,924	09/30/1999	THEODORE DAVID WUGOFSKI	98-0874	4623

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GATEWAY, INC.
ATTN: SCOTT CHARLES RICHARDSON
610 GATEWAY DR., Y-04
N. SIOUX CITY, SD 57049

EXAMINER

CHUNG, JASON J

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/408,924

Applicant(s)

WUGOFSKI, THEODORE DAVID

Examiner

Jason J. Chung

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 1/13/04 have been fully considered but they are not persuasive. The argues on page 13 of the response that Klosterman cannot be rejected under section 102(b) because Klosterman issued less than one year before Applicant's filing date. The examiner appreciates the notice and would like to change the typographical error of a Klosterman (US Patent # 5,828,945) to Klosterman (US Patent # 5,550,576).

The applicant argues on page 14 of the response that the limitation of "determining whether the identified device is capable of being utilized as a program source" is not inherent because there is no step in which a device is discriminated to determine if it is also a program source and thus claims 11-34 are not anticipated by Klosterman. The examiner respectfully disagrees with this assertion. As disclosed in the first Office Action, Klosterman discloses any medium capable of transmitting a signal can transmit information to the user (column 2, line 65-column 3, line 9). Klosterman discloses the service providers transmit guides to the receiver and the service provider can be satellite, cable, etc. (column 4, lines 45-62). Klosterman discloses when creating the merged television guide, a channel map is created which identifies multiple sources and identifies the source such as local or DBS source (column 3, lines 28-47), which meets the limitation on identifying at least one device coupled to the information handling system; the creation of the merged guide necessitates involving a determination of device capability and would meet the limitation on determining whether the device is capable of being utilized as a program source; and in the event the identified device is determined to be capable of being utilized. The local broadcast or the DBS broadcasted with guide information reads on

Art Unit: 2611

generating a program guide for the first device. The DBS broadcast or the local broadcast reads on the identified device, depending on what the first device is the identified device is whatever the first device is not (i.e. first device=DBS, identified device=local broadcast). In order for the channels to be mapped and displayed in a guide, there is inherently a determination as to whether it is a suitable source otherwise the channels would not be mapped and displayed in a guide.

The applicant argues on page 14 of the response, that claims 13 and 35 recite a virtual channel and an actual channel. The examiner would like to point out that the claim rejection has been changed accordingly.

The citation of the new rejection should answer the remaining arguments the applicant had. The examiner would like to apologize for any confusion made in the previous Office Action by citing the wrong reference number thereby leading the applicant to read the rejection using the wrong reference. Accordingly, this action is made non final.

Claim Rejections - 35 USC § 112

2. The rejection under section 112 is withdrawn

Specification

3. The objected is withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2611

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-14, 17-20, 23-26, 29-32, 35-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Klosterman (US Patent # 5,550,576).

Regarding claim 11, Klosterman discloses coordinating schedule guide information received from multiple sources and mixes and sorts it into a desired order (column 2, lines 11-31), which meets the limitation on generating program guide data for programming information available from a first device coupled to the information handling system; monitoring for the presence of additional devices coupled to the information handling system via a network.

Klosterman discloses any medium capable of transmitting a signal can transmit information to the user (column 2, line 65-column 3, line 9). Klosterman discloses in order to track which channels are available from which source, a source identifier is located on each channel such as in a color coding the cable box channel in one color and coloring the channels from the IRD box in another color (column 7, lines 1-18). Klosterman discloses the service providers transmit guides to the receiver and the service provider can be satellite, cable, etc. (column 4, lines 45-62). Klosterman discloses when creating the merged television guide, a channel map is created which identifies multiple sources and identifies the source such as local and DBS source (column 3, lines 28-47), which meets the limitation on identifying at least one device coupled to the information handling system; the creation of the merged guide necessitates involving a determination of device capability and would meet the limitation on determining whether the device is capable of being utilized as a program source; and in the event the identified device is determined to be capable of being utilized. The local broadcast or the DBS

Art Unit: 2611

broadcast with the guide reads on the guide generated for the first device. The DBS broadcast or the local broadcast reads on the identified device, depending on what the first device is the identified device is whatever the first device is not (i.e. first device=DBS, identified device=local broadcast).

Regarding claim 12, 20, Klosterman discloses the user can scroll a cursor onto a program on the grid guide and press the enter key on the remote control causing the system to tune to the program (column 7, lines 19-64, figures 2-3). Klosterman discloses when the user selects a non-DBS channel from the guide, the IRD for the satellite switches the IRD to the local cable to the receiver the system then tunes to the appropriate channel (column 3, lines 33-37), which meets the limitation on enabling control of the device via the program guide and tuning to the program.

Regarding claim 13, Klosterman discloses in the event that there are two channels that are the same, but from different sources such as cable and DBS, an overlap may occur such that the same channels may occur from the different sources; the channels may be arranged by numerical order alphabetical order, order with source, mixed order programmed by the user, or in any other arrangement (column 6, lines 34-48). The same channel occurring from different sources meets the limitation on a conflict; the display of both channels of ABC from different sources meets the limitation on a virtual channel; if there is not a duplicate channel, the single channel is displayed, which meets the limitation on otherwise mapping the channel of the identified device to an actual channel of the program guide.

Regarding claim 14, Klosterman discloses when the user selects a non-DBS channel from the guide, the IRD for the satellite switches the IRD to the local cable to the receiver the system then tunes to the appropriate channel (column 3, lines 33-37). Klosterman discloses the user can

Art Unit: 2611

scroll a cursor onto a program on the grid guide and press the enter key on the remote control causing the system to tune to the program (column 7, lines 19-64, figures 2-3), which meets the limitation on displaying a program received from the identified device on a display coupled to the information handling system.

Regarding claim 17, Klosterman discloses the television schedule data may be provided with the signal transmitted from the service provider such as the schedule for DBS programming, cable, antenna, etc. (column 4, lines 46-62); the schedule data transmitted with the signal reads on device information and the transmitting source of schedule data reads on a registry network which meets the limitation on obtaining device information from a registry of a network.

Regarding claim 18, Klosterman discloses the television schedule data may be provided with the signal transmitted from the service provider such as the schedule for DBS programming, cable, antenna, etc. (column 4, lines 46-62); the schedule data transmitted with the signal reads on device information and the transmitting source of schedule data reads on a registry network which meets the limitation on obtaining device information from a registry of a network.

Regarding claim 19, Klosterman discloses the system receives information from **at least** two separate sources (column 3, lines 2-5). Klosterman shows (figures 1a-1b) that there can be more than two sources, cable box, IRD box, and other inputs, which meets the limitation on continuing the method with the identifying step for additional devices that may be available to the network.

Regarding claims 23-26, 29-32, the limitations in claims 23-26, 29-32 has been met in claims 11-14, 17-20 rejections.

Regarding claim 1, Klosterman discloses a CPU 36 (column 4, lines 17-30), which meets the limitation on a processor for executing a program of instructions on the information handling system.

Klosterman discloses a RAM 38 within the coordinator (column 7, lines 30-34). Klosterman discloses the coordinator finds and sorts the program guide information and the program guide information can be available from all or several of available sources (column 4, line 63-column 5, line 12). Klosterman discloses the IRD (integrated receiver decoder) receives signals and can display program information (column 3, lines 27-47), which meets the limitation on a processor for executing instructions, a memory coupled to the processor for storing program of instructions to be executed and presenting program guide stored in the memory and communicate with a device coupled to the network such that information encoded in a signal made available by the device is received and processed by the system.

Klosterman discloses any medium capable of transmitting a signal can transmit information to the user (column 2, line 65-column 3, line 9). Klosterman discloses in order to track which channels are available from which source, a source identifier is located on each channel such as in a color coding the cable box channel in one color and coloring the channels from the IRD box in another color (column 7, lines 1-18). Klosterman discloses the service providers transmit guides to the receiver and the service provider can be satellite, cable, etc. (column 4, lines 45-62). Klosterman discloses when creating the merged television guide, a channel map is created which identifies multiple sources and identifies the source such as local and DBS source (column 3, lines 28-47), which meets the limitation on wherein the program of instructions, when executed is capable of permitting a search for devices coupled to the network,

Art Unit: 2611

identifying the devices coupled to the network, determining which of the devices are tuning sources, and adding those devices determined to be tuning sources to the electronic program guide.

Regarding claim 2, Klosterman discloses in each of the embodiments a television displays a program guide (figures 1a-1d, column 2, lines 23-31, column 6, lines 15-33), which meets the limitation on a displayed coupled to the information handling system for displaying the program guide.

Regarding claim 3, Klosterman discloses in each of the embodiments a television displays a program guide (figures 1a-1d, column 2, lines 23-31, column 6, lines 15-33). Klosterman discloses the IRD (integrated receiver **decoder**) receives signals and can display program information (column 3, lines 27-47). Klosterman discloses the schedule information is added to the transmitted signal (column 4, lines 46-63), which meets the limitation on a display coupled to the information handling system for displaying the information encoded in a signal made available by the device.

Regarding claim 4, Klosterman discloses the grid guide uses a lineup of channels from different sources (column 6, lines 34-50). Klosterman discloses the guide includes source identifiers (column 7, lines 1-18). Klosterman discloses the user uses the remote control and scrolls to the program on the guide and selects the program, the coordinator tunes to the appropriate source if the source is different from the source currently being viewed (column 7, lines 39-64; column 8, lines 9-40), which meets the limitation on provide content to the display

Art Unit: 2611

via the information handling system are incorporated into the program guide such that the device may be utilized by the information handling system.

Regarding claim 5, Klosterman discloses the grid guide channels can be arranged by alphabetical order, source, mixed order programmed by the user, or any other arrangement (column 6, lines 34-48), which meets the limitation on the availability of the device is capable of being incorporated into the program guide such that content from the device may be accessed via a distinct channel of the program guide.

Regarding claims 6-11, the limitations in claims 6-11 have been met in claims 1-5 rejections.

Regarding claim 35-37, the limitations in claim 35-37 have been met in claim 13 rejection.

Regarding claim 38-40, the limitations in claim 38-40 have been met in claim 13 rejection.

Regarding claim 41, the limitations in claim 41 have been met in claims 1, 11 rejections.

Regarding claims 42-44, the limitations in claims 42-44 have been met in claim 13 rejections.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2611

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15-16, 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman in view of Tsumori (US Patent # 5,438,372).

Regarding claims 15-16, Klosterman fails to disclose simultaneously receiving and displaying programs from the first device and the identified device. Tsumori discloses a satellite tuner referred to as a BS tuner (column 1, lines 29-31). Tsumori discloses a picture in picture system that displays a terrestrial broadcast on the mini-viewing screen and the BS broadcast on the main screen (column 10, lines 32-52), which meets the limitation on simultaneously receiving and displaying programs from a first device and identified device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Klosterman to have a picture in picture show programming from one source in the smaller display and programming from another source on the main display as taught by Tsumori in order to show the user what is being broadcasted on a different channel.

Regarding claims 27-28, the limitations in claims 27-28 have been met in claims 15-16 rejections.

6. Claims 21-22, 33-34 rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman in view of Iwamura (US Patent # 5,883,621).

Regarding claims 21-22, 33-34, Klosterman strongly suggests monitoring for the presence of an additional device and notifying the information handling system of the presence of additional devices by showing more than two different devices coupled to the coordinator (figures 1a-1d) and by stating that **at least** two separate sources (column 3, lines 2-5); the

Art Unit: 2611

independent claims states a first device and identifying **at least one** device coupled to the network.

Klosterman fails to disclose **searching** for the presence of additional devices and notifying the information handling system of the presence of additional devices. Iwamura discloses in the self-identification, every time a new device joins the network, a reset signal is sent that clears the topology information (column 4, line 55-column 5, line 5). Iwamura discloses the self-identification process stores states of the ports in the IRD 100 (information handling system) (column 5, line 34-column 6, line 18, figures 3, 5, 6), which meets the limitation on monitoring the presence of an additional device and notifying the information handling system of the presence of additional devices. It would have been obvious to one of ordinary skill in the art to modify Klosterman to include searching for the presence of additional devices and notifying the information handling system as taught by Iwamura in order to be aware of the connection states of the devices in order to properly utilize communication between devices.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Chung whose telephone number is (703) 305-7362. The examiner can normally be reached on M-F, 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew I. Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JJC



VIVEK SRIVASTAVA
PRIMARY EXAMINER